

**ALESHIRELAW**

A PROFESSIONAL CORPORATION

3605 SHADY VALLEY DR.  
AUSTIN, TEXAS 78739**Bill Aleshire**

512 320-9155 (call) 512 320-9156 (fax)

May 24, 2021

TO: (VIA EMAIL)  
City Attorney Ann Morgan  
Austin Planning Commission  
Austin City Council  
Heather Chaffin, Case Manager

RE: Zoning Case No. C14-2020-0089

Dear City Officials and Staff:

I have been retained by Bethany Cemetery Association of Travis County, Inc. regarding a valid petition signed by its agent, Sue Spears, opposing the zoning as currently requested by the applicant in Zoning Case No. C14-2020-0089. *See* attached Exhibit A. Bethany Cemetery is the owner of 1308 SPRINGDALE RD 78721, identified as TCAD GID 0210180514. *See* attached Exhibit B, identify owner as “Bethany Cemetery, c/o Sue Spears.”). The County deed records reflect ownership was transferred in 1976 from Bethany Cemetery Co., et al., to Bethany Cemetery Ass'n of Travis County, Inc. recorded at vol. 6558, p.628, Deed Records, Travis County, Texas.

From the Planning Commission backup (Item B8, Meeting 2021-5-25), it appears that staff has not determined whether a valid petition has been filed. *See* staff comment at Page 2 of 155, Item B8 backup: “A petition has been filed in response to the proposed rezoning. The petition is currently being reviewed by staff to determine if it meets the criteria of a Valid Petition.” As I understand the law, the Planning Commission’s action is not formally affected by whether a Valid Petition exists, but the Council’s action is.

The property owned by Bethany Cemetery is directly adjacent to the property subject to the zoning case and is sufficient alone (exceeds 20% of the area of lots immediately adjoining) to meet the criteria for a Valid Petition. One would hope that the opposition to this zoning change by the MLK Homeowners Association would be sufficient to give pause to approving the zoning, but, as a matter of law, Bethany Cemetery’s opposition is sufficient to *require* the super-majority vote of the Council.

The City recognized Bethany Cemetery c/o Sue Spears as the owner of this tract, and, pursuant to Tex. Loc. Gov’t Code § 211.007(c), sent Ms. Spears notice of this zoning case. There is no question that Bethany Cemetery Ass’n of Travis County, Inc. is the owner of the property

and Sue Spears has been recognized as the contact and agent for the owner. The Valid Petition filed by Sue Spears meets the criteria for a valid petition and should be recognized by the Council as such. There is a sad history of the Austin City Council majority, at times, disrespecting neighborhoods and property owners affected by development proposals. Let us hope this case does not go on that list. Ultimately, subject to judicial review, it is up to the members of the City Council to decide whether a Valid Petition will be recognized and whether the intent of the law establishing the super-majority vote requirement will be enforced.

ALESHIRELAW, PC



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Bill Aleshire

cc. Client

PETITION

Date: 5/10/21

File Number: C14-2020-0089

Address of Rezoning Request: 1200 Springdale, 1202 Springdale, 1208 Springdale Tract 2 (1.47 ac)

To: Austin City Council

We, the undersigned owners of property affected by the requested zoning change described in the referenced file, do hereby protest against any change of the Land Development Code which would zone the property to any classification other than GR-MU-NP.

Signature

Printed Name

Address including Unit No.

*Sue Spears*

Bethany Cemetery Co  
Sue Spears

1308 Springdale Rd  
Austin, TX 78721.

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To the City: Please contact me immediately with questions or if any signature is disallowed.

Date: 5/10/21

Contact Name: Melonie Dixon

Email y

Number 512 964 7853

# Travis CAD

# EXHIBIT B

## Property Search Results > 201127 BETHANY CEMETERY for Year 2020

Tax Year:

### Property

**Account**

Property ID:	201127	Legal Description:	6.25 AC OF OLT 18&1/2 DIVISION B
Geographic ID:	0210180514	Zoning:	SF3
Type:	Real	Agent Code:	
Property Use Code:			
Property Use Description:			

**Protest**

Protest Status:  
 Informal Date:  
 Formal Date:

**Location**

Address:	1308 SPRINGDALE RD TX 78721	Mapsco:	
Neighborhood:	FORMERLY EEXMP	Map ID:	021011
Neighborhood CD:	_EEXMP		

**Owner**

Name:	BETHANY CEMETERY	Owner ID:	184633
Mailing Address:	% SUE SPEARS 8308A COLONY LOOP DR AUSTIN , TX 78724-3921	% Ownership:	100.0000000000%
		Exemptions:	EX-XV

**Values**

(+) Improvement Homesite Value:	+	\$0	
(+) Improvement Non-Homesite Value:	+	\$0	
(+) Land Homesite Value:	+	\$0	
(+) Land Non-Homesite Value:	+	\$1,361,250	Ag / Timber Use Value
(+) Agricultural Market Valuation:	+	\$0	\$0

(+) Timber Market Valuation:	+	\$0	\$0
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(=) Market Value:	=	\$1,361,250	
(-) Ag or Timber Use Value Reduction:	-	\$0	
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(=) Appraised Value:	=	\$1,361,250	
(-) HS Cap:	-	\$0	
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(=) Assessed Value:	=	\$1,361,250	

### Taxing Jurisdiction

Owner: BETHANY CEMETERY  
 % Ownership: 100.000000000000%  
 Total Value: \$1,361,250

Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax
01	AUSTIN ISD	1.102700	\$1,361,250	\$0	\$0.00
02	CITY OF AUSTIN	0.533500	\$1,361,250	\$0	\$0.00
03	TRAVIS COUNTY	0.374359	\$1,361,250	\$0	\$0.00
0A	TRAVIS CENTRAL APP DIST	0.000000	\$1,361,250	\$0	\$0.00
2J	TRAVIS COUNTY HEALTHCARE DISTRICT	0.110306	\$1,361,250	\$0	\$0.00
68	AUSTIN COMM COLL DIST	0.105800	\$1,361,250	\$0	\$0.00
Total Tax Rate:		2.226665			
				Taxes w/Current Exemptions:	\$0.00
				Taxes w/o Exemptions:	\$30,310.48

### Improvement / Building

No improvements exist for this property.

## Land

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	LAND	Land	6.2500	272250.00	0.00	0.00	\$1,361,250	\$0

## Roll Value History

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2021	N/A	N/A	N/A	N/A	N/A	N/A
2020	\$0	\$1,361,250	0	1,361,250	\$0	\$1,361,250
2019	\$0	\$1,361,250	0	1,361,250	\$0	\$1,361,250
2018	\$0	\$1,361,250	0	1,361,250	\$0	\$1,361,250
2017	\$0	\$1,361,250	0	1,361,250	\$0	\$1,361,250
2016	\$0	\$1,361,250	0	1,361,250	\$0	\$1,361,250

## Deed History - (Last 3 Deed Transactions)

#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
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### Questions Please Call (512) 834-9317

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**From:** Jennifer  
**Sent:** Monday, May 24, 2021 11:53 AM  
**To:** Chaffin, Heather <Heather.Chaffin@austintexas.gov>  
**Subject:** Case Number: C14-2020-0089, Item B-06 12th & Springdale Residences

\*\*\* External Email - Exercise Caution \*\*\*

Howdy,

I'm writing in lieu of appearing at tomorrow's rezoning hearing for Case Number: C14-2020-0089, Item B-06 12th & Springdale Residences.

My name is Jennifer Hecker (4503 Glomar Ave) and I'm a lifelong Austinite who has lived in this neighborhood for over 17 years. I oppose the request due to the threat it poses to both possible unmarked graves in the area, as well as the impact on the physical environment, and the character of the neighborhood. Residents deserve green spaces and deserve to have the history, heritage, and previous inhabitants of the area honored rather than paved over.

Black Lives Matter and this is an opportunity to show that Austin is finally ready to act accordingly.

Thank you all for your time,

Jennifer Hecker  
4503 Glomar Ave  
78721

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**From:** Will Slack <  
**Sent:** Monday, May 24, 2021 10:09 AM  
**To:** Chaffin, Heather <Heather.Chaffin@austintexas.gov>  
**Subject:** Public Hearing for Rezoning--Case Number: C14-2020-0089, Item B-06 12th & Springdale Residences

Hello Heather,

My name is William Slack, I live at 1307 E.M. Franklin, 78721. I am unable to speak at the hearing tomorrow night regarding Case Number: C14-2020-0089, Item B-06, 12th & Springdale Residences. I am **opposed** to the zoning change. I'd like my comments (below in blue) to be shared with the commissioners. THANKS!:

Hello, my name is William Slack. I live in the MLK neighborhood, on EM Franklin. I am opposed to this zoning change and the planned development. Allowing the construction of 60' tall buildings in a neighborhood of 30' tall homes and businesses will drastically alter the character of this historical neighborhood. Allowing such construction on a plot of land that could very well contain gravesites from Historical Bethany Cemetery is also of great concern, as so much of the recent development in the area seems happy to literally pave over the past.

The increased traffic caused by the increase of residents and businesses in this proposed development will further exacerbate the traffic issues we have in our neighborhood, particularly during the rush hours. I've watched my relatively calm street become a high speed cut-through for cars. This is a neighborhood in which many streets have no sidewalks, and pedestrians and cyclists are hit all too often. Walking a dog on my street requires you to frequently duck behind parked cars to avoid being run over. Before our historically underserved community is asked to approve higher density to help with the housing crisis, the city should address some of the issues that it seems unable to improve under the current density. Thank you.

**From:** Dr. Debra L. Murphy

**Sent:** Sunday, May 23, 2021 9:27 AM

**To:** Chaffin, Heather <Heather.Chaffin@austintexas.gov>

**Subject:** Citizen 2. Item number: Case Number: C14-2020-0089, Item B-06 12th & Springdale Residences)

\*\*\* External Email - Exercise Caution \*\*\*

- 1. Name: Dr. Debra L. Murphy, Immediate Past President of the MLK Neighborhood Association; current member of the MLK Neighborhood Association; McKinley Hts. Terrace Resident, Neighbor, and Concerned Citizen**
- 2. Item number: Case Number: C14-2020-0089, Item B-06 12th & Springdale Residences)**
- 3. Position: I am vehemently opposed to this development, as well as, the ongoing racist assault of the over-gentrification of the historic East Austin Community, which without sensitivity continues to overbuild and force out the familial quality and atmosphere of the area and replace with concrete and mega mansion dwellings that are often unappealing eyesores that increase dangers like flooding and force out residents who have been the backbone of the community.**
- 4. Mailing address: 3309 East 17th Street**
- 5. Telephone number: 512-799-3637**

May 25, 2021

To the City of Austin Planning Commission:

I am writing to express my concerns about rezoning case C14-2020-0089. The addition of the Vertical Mixed Use zoning to this tract of land will have detrimental consequences on Historic Bethany Cemetery and the Martin Luther King Neighborhood, and I urge you to carefully consider the following before making any recommendation for this increase in zoning.

This tract is home to several critical environmental features, including old growth trees, wetlands, and underground seeps and springs which serve as a filtration system for water entering the Tannehill Branch Creek. Without limits on building coverage or minimum site area requirements and up to 90% impervious cover, the functions of these CEFs and their role in impeding flooding may be irrevocably compromised. (It is important to note that the east side of Cometa Street (less than 1/4 mile from the proposed site of development) is now in the 100-year flood plain.

Already, during the course of the ground-penetrating radar survey that the developer is conducting, a large swath of land around the perimeter of Bethany Cemetery has been clear cut without regard to these CEFs or the cemetery's boundaries. These boundaries are not delineated by the chainlink fence that surrounds the cemetery; in fact, the bounds of the cemetery extend beyond the fence. (See attached overlay prepared by Rachel Feit of Acacia Heritage).

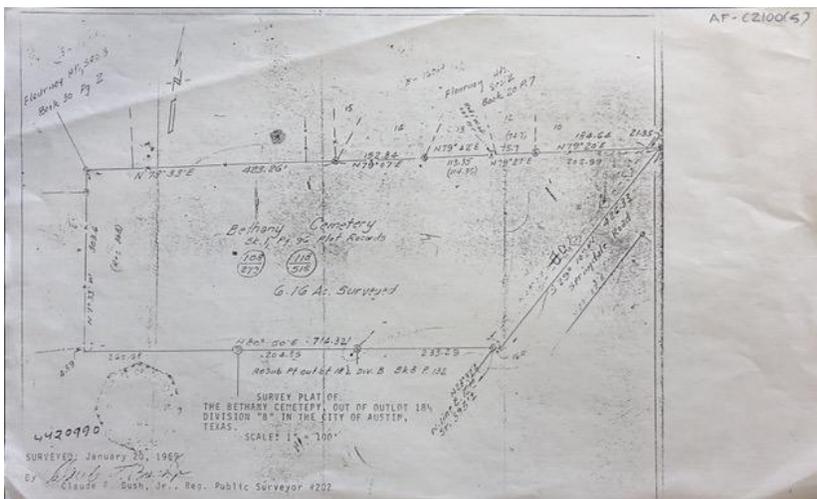
Maintaining minimum setbacks from the political boundary the tract shares with Bethany Cemetery will help to maintain a modicum of sanctity for those buried on and possibly beyond its grounds. Thank you for taking the time to read this letter and for your efforts to fully understand the implications of this upzoning in advance of offering a recommendation.

Sincerely,  
Melinda Barsales



From an email I received from Rachel Feit dated March 4, 2021:

“To make the kmz, I used the attached plat, made in 1969, as opposed to the original one, and overlaid it onto Google Earth. The plat was in the collection of materials you sent me a link to, and if you look closely it has the measurements in feet of each side of the cemetery. The red boundary line I drew from the Google earth overlay encompasses an area that is 6.26 acres matches the size of the cemetery as originally deeded. And yes, it would appear the current fenceline, as far as I can tell, does not represent the entire boundary of the cemetery.”







**From:** Marie Butcher

**Sent:** Tuesday, May 25, 2021 9:45 AM

**To:** Chaffin, Heather <Heather.Chaffin@austintexas.gov>

**Subject:** Case Number: C14-2020-0089 Item B-06 12th & Springdale Residences

\*\*\* External Email - Exercise Caution \*\*\*

To the Planning Committee,

My name is Marie Butcher and I am firmly opposed to the upzoning of the 12th and Springdale residences. This development is tone deaf to the culture, history, and ecology of the neighborhood - upzoning will only worsen this impact. We have lived here for 12 years and one by one watched most of our black and brown neighbors leave the area for financial reasons. This developer has not made any promises to be inclusive with black, brown, and locally owned businesses. I fear that we are going to get retail that serves more wealthy predominately white residents as has been the case time and time again in this neighborhood. The claimed affordability in the residential units is completely unrealistic for long standing families in our neighborhood - for this reason, if we allow the upzoning request to include residential we are, again, making this area less welcome to those who have lived here for so long.

This tract includes the very springs that give Springdale its name. Instead of preserving the springs and their wildlife for future generations of this neighborhood to learn from and enjoy, we are paving them over. These springs are a critical environmental feature, providing runoff filtration before water enters creeks. This development would destroy the springs, once again, lead to environmental degradation and potential health impacts for our underserved residents. The loss of this natural area also has the potential to make flooding of nearby houses much more likely- who will help them when this happens? The upzoning request allows significantly more impervious cover which will ensure that the Springdale springs are paved over and forgotten forever.

Most alarmingly the way they have treated our historic black cemetery through this process has been appalling. Thankfully your council has helped to ensure that no unmarked graves will be unknowingly disturbed during the construction process. I am so glad that you helped us to ensure that a ground survey was conducted. Moving forward, however, I know from their prior behavior that they will not have the ancestors of our neighborhood in mind when building development, and that deeply worries me. Any added ground cover/size of the development through upzoning is only going to add to the inappropriate juxtaposition to Bethany Cemetery. Please do not allow the upzoning of this development.

Thank you for your consideration,  
Marie Butcher

From: Lisa Roebuck  
Sent: Tuesday, May 25, 2021 11:22 AM  
To: Chaffin, Heather <Heather.Chaffin@austintexas.gov>  
Subject: C14-2020-0089 - Twelfth and Springdale Residences

\*\*\* External Email - Exercise Caution \*\*\*

Hello,

I am writing to express my opposition to the rezoning of the property at 1200, 1202, & 1208 Springdale Road, Tannehill Branch Watershed; East MLK Combined NP Area that is planned for the C14-2020-0089 - Twelfth and Springdale Residences, also known as 4120 E 12th St, Austin, 78721, 3.4376 AC OF OLT 18&1/2 DIVISION B. I live about 1,000 feet from this property.

The current zoning would allow adequate development. Rezoning to vertical mixed use would not be in keeping with the character of the neighborhood. Our neighborhood has already seen a drastic increase in development with single family housing being converted to multifamily throughout the neighborhood. Along with this comes increased traffic, inadequate drainage and water supply, inadequate parking, and inadequate space for trash and brush pickup. This level of development in our neighborhood is unsustainable.

Thank you,  
Lisa Roebuck  
1161 Webberville Rd  
Austin, TX 78721

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